

No. CR-15-310-BLF

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FILED
MAY 18 2017
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

THE UNITED STATES OF AMERICA
vs.

DIEP THI VO, a/k/a NANCY VO

SUPERSEDING INDICTMENT

SEE ATTACHMENT

A true bill.


Foreperson

Filed in open court this 18 *day of* May 2017

A.D. 2017


UNITED STATES MAGISTRATE JUDGE

Bail. \$ no process report

ATTACHMENT TO INDICTMENT COVER

U.S.
v.
DIEP THI VO,
a/k/a NANCY VO

OFFENSES CHARGED:

18 U.S.C. § 286 — Conspiracy to File False Claims; 18 U.S.C. §§ 287 & 2 — Aiding & Abetting in Filing False Claim; 18 U.S.C. § 1341 — Mail Fraud; and 18 U.S.C. §§ 1028A & 2 — Aggravated Identity Theft

COUNT ONE: 18 U.S.C. § 286 — Conspiracy to File False Claims

Penalties:

Maximum Prison Sentence:	10 years imprisonment
Maximum Fine:	\$250,000
Supervised Release:	3 years
Special Assessment:	\$100

COUNTS TWO THROUGH FOUR: 18 U.S.C. §§ 287 & 2 — Aiding & Abetting in Filing False Claim

Penalties:

Maximum Prison Sentence:	5 years imprisonment
Maximum Fine:	\$250,000
Supervised Release:	3 years
Special Assessment:	\$100

COUNTS FIVE THROUGH SIX: 18 U.S.C. § 1341 — Mail Fraud

Penalties:

Maximum Prison Sentence:	20 years imprisonment
Maximum Fine:	\$250,000
Supervised Release:	3 years
Special Assessment:	\$100

COUNTS SEVEN THROUGH EIGHT: 18 U.S.C. §§ 1028A & 2 — Aggravated Identity Theft

Penalties:

Maximum Prison Sentence:	2 years imprisonment
Maximum Fine:	\$250,000
Supervised Release:	3 years
Special Assessment:	\$100

FILED

MAY 18 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

BRIAN J. STRETCH (CABN 163973)
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR-15-310-BLF
)	
Plaintiff,)	<u>VIOLATIONS:</u> 18 U.S.C. § 286 –
)	Conspiracy to File False Claims; 18 U.S.C.
v.)	§ 287 – Filing False Claims; 18 U.S.C. §
)	1341 – Mail Fraud; 18 U.S.C. § 1028A –
DIEP THI VO, a/k/a)	Aggravated Identity Theft
NANCY VO,)	
)	
Defendant.)	
)	SAN JOSE VENUE

SUPERSEDING INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this indictment, unless otherwise indicated, and with all dates being approximate and all date ranges both approximate and inclusive:

1. DIEP THI VO, aka NANCY VO (hereinafter VO), resided in San Jose, California, and elsewhere in the Northern District of California.
2. T.M.N., aka J.N. (J.N.), resided in San Jose, California, and elsewhere in the Northern District of California.

1 3. N.T.N. (hereinafter N.N.), resided in San Jose, California, and elsewhere in the Northern
2 District of California.

3 4. A “means of identification” includes any name or number that may be used, alone or in
4 conjunction with other information, to identify a specific individual, including a name, Social Security
5 number, signature, or date of birth.

6 5. The amount of tax that is reported as “withheld” on a federal income tax return is the
7 amount of income tax that employers are required to deduct from employees’ wages pursuant to 26
8 U.S.C. § 3402.

9 6. The Internal Revenue Service (“IRS”) is an agency of the United States within the
10 Department of the Treasury of the United States responsible for enforcing and administering the tax
11 laws of the United States.

12 COUNT ONE: (18 U.S.C. § 286 — Conspiracy to File False Claims)

13 7. Paragraphs 1 through 6 are incorporated and realleged as if fully set forth here.

14 8. Beginning at a date prior to May 2012, and continuing until at least December 29, 2013,
15 within the Northern District of California, and elsewhere, the defendant,

16 DIEP THI VO,
17 aka NANCY VO

18 and others, both known and unknown to the grand jury, entered into an agreement, combination,
19 and conspiracy with others and each other to defraud the IRS, an agency of the United States, by
20 obtaining and aiding to obtain the payment and allowance of false, fictitious, and fraudulent claims.

21 MANNER AND MEANS OF THE CONSPIRACY AND THE SCHEME TO DEFRAUD

22 9. VO, J.N., and others, both known and unknown to the Grand Jury, filed, or helped others
23 file, false claims with the IRS requesting fraudulent tax refunds.

24 10. As part of the scheme, VO, J.N., and their co-conspirators solicited unemployed
25 individuals by advertising the false benefits of their scheme at homeless shelters and halfway houses.

26 11. VO and J.N. explained in discussions and in written advertisements for their scheme that
27 unemployed individuals can obtain a tax refund for years the individuals did not work or earn wages.
28

1 After obtaining the individuals' names and Social Security numbers, VO and J.N. asked the individuals
2 to sign blank federal income tax returns.

3 12. After the tax returns were signed, VO and J.N. falsely reported that the individual earned
4 wages in the amount of \$7,000, \$7,100 or \$7,200. VO and J. N. also included on the tax returns fictitious
5 amounts of withheld federal income taxes.

6 13. To further the scheme and to obtain the fraudulent tax refunds, VO and J.N. requested
7 refunds of the fictitious withheld federal income taxes that were inserted on the tax returns after each
8 individual signed the form.

9 14. In order to receive the payments, VO and J.N. opened or caused to be opened private
10 mailboxes and asked the IRS to send the fraudulent payments to those mailboxes.

11 15. Thereafter, VO and J. N. asked the individuals receiving the checks to provide to Vo and
12 J.N. a portion of each refund as payment.

13 All in violation of Title 18, United States Code, Section 286.

14 COUNTS TWO THROUGH FOUR: (18 U.S.C. §§ 287 & 2 — Aiding & Abetting in Filing False Claim)

15 9. Paragraphs 1 through 6 and 9 through 15 are incorporated and realleged as if fully set
16 forth here.

17 10. On the dates described in the tables below, in the Northern District of California and
18 elsewhere, the defendant,

19 DIEP THI VO,
20 a/k/a NANCY VO,

21 made and presented, or aided and abetted in making to the Internal Revenue Service, a claim against the
22 United States for payment of a refund of taxes in an amount indicated below, which she then and there
23 knew to be false, fictitious, and fraudulent. DIEP THI VO made the claim by preparing, and aiding in
24 the preparation of, and causing to be prepared, and presenting and causing to be presented to said
25 agency, a U.S. Individual Income Tax Return, which requested a refund to which the defendant knew
26 that the individual listed below was not entitled, payable in the amounts, and to the individuals identified
27 by their initials in the table below:
28 /

Count	Date Claim Filed	Amount of U.S. Treasury Funds Issued	Individual Listed On Tax Return
2	01/24/2013	\$2,087	R.T.
3	01/24/2013	\$2,114	R.T.
4	04/18/2013	\$2,207	R.T.

Each in violation of Title 18, United States Code, Sections 287 and 2.

COUNTS FIVE THROUGH SIX: (18 U.S.C. § 1341 — Mail Fraud)

11. Paragraphs 1 through 6 and 9 through 15 are incorporated and realleged as if fully set forth here.

12. On the dates identified in the tables below, in the Northern District of California and elsewhere, defendant,

DIEP THI VO,
aka NANCY VO,

did knowingly and intentionally devise a material scheme and artifice to defraud, and to obtain money, by means of material false and fraudulent pretenses, and representations made on false claims filed with the IRS, and for the purpose of executing such scheme and artifice did cause to be placed in a United States post office or other authorized depository for mail matter, items to be delivered by the United States Postal Service according to the directions thereon, and caused to be deposited items to be sent and delivered by private and commercial interstate carriers, as set forth below:

Count	Date Tax Return Filed	Amount of Refund Claimed	Individual Listed on Tax Return	Tax Year
5	03/02/2013	\$2,114	R.G.	2011
6	03/02/2013	\$2,314	R.G.	2012

Each in violation of Title 18, United States Code, Section 1341.

COUNTS SEVEN THROUGH EIGHT: (18 U.S.C. §§ 1028A & 2 — Aggravated Identity Theft)

13. Paragraphs 1 through 6 and 9 through 15 are incorporated and realleged as if fully set forth here.

On the dates identified below, within the Northern District of California and elsewhere, the defendant,

DIEP THI VO,
a/k/a NANCY VO,

during and in relation to a felony violation of 18 U.S.C. § 1341, mail fraud, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, that is, the names of the individuals identified by their initials in the table below:

Count	Date Tax Return Filed	Amount of Refund Claimed	Individual Listed on Tax Return	Tax Year
7	03/02/2013	\$2,114	R.G.	2011
8	03/02/2013	\$2,314	R.G.	2012

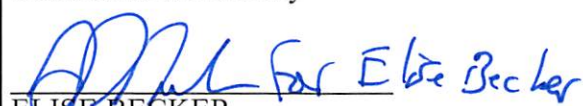
Each in violation of Title 18, United States Code, Section 1028A(a)(1).

A True Bill


Dated: 5/18/2017


FOREPERSON

BRIAN J. STRETCH
United States Attorney


ELISE BECKER
Deputy Chief, Criminal Division

Approved as to Form


THOMAS NEWMAN
Assistant United States Attorney

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☒ SUPERSEDING
OFFENSE CHARGED

SEE ATTACHMENT

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: SEE ATTACHMENT

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

DIEP THI VO, a/k/a NANCY VO

DISTRICT COURT NUMBER

15-310-BLF

FILED

MAY 18 2017

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

IRS

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form BRIAN J. STRETCH

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Thomas M. Newman

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive3) ☒ Is on Bail or Release from (show District)

NDCA

IS IN CUSTODY4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

ATTACHMENT TO PENALTY SHEET

U.S.
v.
DIEP THI VO,
a/k/a NANCY VO

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